

Construction Newsletter

[Presented by the Law Offices of Ashley A. Baron]

Legal News for Construction Industry

Advertising Within the Law to Prevent the Contractors License Board from Issuing Civil Penalties

Contractors must comply with the rules for advertising set forth in the California Contractors State License Board Rules and Regulations and the Business and Professions Code. Failure to comply with these laws can result in civil penalties between \$100 and \$1,000 for a first offense and coupled with other citations at the same time could result in civil penalties up to \$5,000. Repeat violations can result in higher fines and/or the suspension or revocation of your contractors license.

The CSLB has recently begun crack downs on license violations and contractors should be aware that advertising violations are being cited.

All advertising must contain your contractors license number. *Business & Professions Code* § 7030.5 states: "Every person licensed pursuant to this chapter shall include his license number in: (a) all construction contracts; (b) subcontracts and calls for bid; and (c) **all forms of advertising**, as prescribed by the registrar of contractors, used by such a person." (Emphasis added.)

However, what most contractors do not understand is that "advertising" has a broader definition than they may think. As defined by the *Contractors State License Board Rules and*

Regulations ("CSLBRR") Rule 861, "the term "advertising" includes but is not limited to the following: any card, contract proposal, sign, billboard, lettering on vehicles registered in this or any other state, brochure, pamphlet, circular, newspaper, magazine, airwave or any electronic transmission and any form of directory under any listing denoting 'Contractor' or any word or words of a similar import or meaning requesting any work for which a license is required by the Contractors License Law."

It should be noted that the Contractors Board views web sites as electronic transmission, so your contractors license number must appear on such sites on each page. Likewise, it is probably required that you display your license number on all social media or networking sites such as LinkedIn, FaceBook, Manta, Yelp, Google, Yahoo Local Listings etc. You will also have to put your license on any internet advertisement you or anyone else posts or distributes. The Contractors State License Board also states that any clothing or giveaway items that include your company name or logo must contain your license number. So the t-shirts, hats, ink pens and note pads all must have your license number on them.

Business & Professions Code § 7029.5 requires that all business vehicles of contractors licensed under C-36 (Plumbing), C-45 (Sign), and C-57 (Well Drilling) must display, on each side of every business vehicle with commercial registration in letters at least 1 ½ inches high: (a) the

business name; (b) the permanent business address; and (c) the contractor's license number.

Under *Business & Professions Code* § 7029.6 all other contractors must display, on every one of their vehicles with commercial registration in letters at least 72 point font or ¾ inch high and wide: (a) the business name; and (b) the contractor's license number.

Business & Professions Code § 7071.13 forbids a contractor from any reference to his contractors license bond in any advertisement. It states: "Any reference ... in his advertising, soliciting, or other presentments to the public, to any bond required to be filed pursuant to this chapter is a ground for suspension of the license of such contractor." Further, *Business & Professions Code* § 7027.4(b) makes it grounds for discipline if a contractor

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advertises he is bonded in reference to his contractors license bond.

Business & Professions Code § 7027.4(a) makes it grounds for discipline if a contractor advertises that he is “insured” or has insurance without identifying in the advertisement the type of insurance, including for example, “commercial general liability insurance” or “workers compensation insurance” that is carried by the contractor. However, the contractor may abbreviate the title of the type of insurance.

Business & Professions Code § 7027.1 makes it a misdemeanor for a contractor to advertise for work unless he holds a valid license for the classification advertised except a licensed building or engineering contractor can advertise as a general contractor. For instance, if you have a C-21 demolition license and you advertise to do electrical work, you can be charged with a misdemeanor unless you also have a C-10 electrical license.

Likewise, *Business & Professions Code* § 7117.6 provides that: “[a]cting in the capacity of a contractor in a classification other than that currently held by the licensee constitutes a cause for disciplinary action.”

Business & Professions Code § 7161 makes it a misdemeanor for a contractor to use false, misleading, or deceptive advertising to induce clients to enter into home improvement or other improvement contracts if the public might be mislead or injured.

Asbestos removal contractors must also include the name they are registered under and the asbestos certification number issued by the CLSB pursuant to *Business & Professions Code* § 7058.5; and the registration number required under *Labor Code* § 6501.5 for anyone doing asbestos work pursuant to *Business & Professions Code* § 7099.11. Failure to do so will result in a notice to comply from the Registrar. Failure to comply with the notice or advertising to remove asbestos without being properly certified and registered, will result in a citation and civil penalties of between

\$100 and \$1,500.

Business & Professions Code § 7059.1(a) provides that: “[a] licensee shall not use any business name that indicates the licensee is qualified to perform work in classifications other than those issued for that license, or any business name that is incompatible with the type of business entity licensed.” Again, if you are licensed as an electrical contractor don’t advertise masonry work. Also, be careful about using a name like “Superior General Building” if you are licensed as a plumbing contractor.

Business & Professions Code § 7059.1(b) provides that: “[a] licensee shall not conduct business under more than one name for each license.” Thus, you can not be licensed under the name “Ed’s Plumbing” and put “ABC Plumbing” on your web site using “Ed’s Plumbing’s” contractor’s license number.

Business & Professions Code § 7075 requires that contractors display their license in the licensee’s main office or chief place of business. It also requires that you can prove that you are licensed upon request, so carry a pocket license verification on the job site or keep it available in the construction job trailer.

Unlicensed contractors, even though not licensed by the Contractors State License Board are subject to the laws nonetheless. When advertisements appear with either no license number or with numbers not issued by the CSLB, it will target such contractors for sting operations.

The CSLB pursuant to *Business & Professions Code* § 7099.10(a) states that if the CSLB has probable cause to believe that licensee or an unlicensed individual acting in the capacity of a contractor has violated *Business & Professions Code* § 7027.1 by advertising for construction or work of improvement in an alphabetical or classified directory, without being properly licensed by the CLSB, the CLSB will issue a citation under *Business & Professions Code* § 7099

for an order of correction which requires the violator to cease the unlawful advertising and to notify the telephone company furnishing services to the violator to disconnect the telephone service to any telephone number contained in the unlawful advertising, and that subsequent calls to that number shall not be referred by the telephone company to any new number obtained by that person.

When you have any questions about advertising under the law you should consult a construction attorney. For a free consultation contact us and we will be glad to assist you in reviewing your advertising policies.

We now have both Orange County and Park City Offices. Ashley Baron, a U.S.C. undergraduate and law school graduate, has been a lawyer for the past 29 years. Ms Baron has tried over 100 cases. The firm performs construction, business, arbitration, labor law and litigation support for developers, general contractors, material suppliers, subcontractors, banks, title companies and other businesses in Orange, Riverside, San Bernardino, Los Angeles and San Diego Counties. For further information contact us at (714) 974- 1400 or e-mail us at ashleybaronesq@yahoo.com. Please take a look at our all new web site at: www.ashleybaron.com where you can learn more about our firm, can read and review our past newsletters and our blog of current information.